

REMARKS

Claims 1, 8, 10, 11, 18 and 19 are amended. Claims 1-20, as amended, remain in the application. No new matter is added by the amendments to the claims.

Claim 19 is amended to correct a typographical error.

In the Office Action dated July 1, 2005, the Examiner rejected Claims 1, 11, and 18 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claim 1 of U.S. Patent No. 6,698,442 in view of Gauthier et al. (U.S. Patent No. 6,604,549). The Examiner stated that the '442 patent discloses all of the recited structure with the exception of using a plurality of fasteners to hold the second conduit in the main conduit. The Examiner further stated that Gauthier et al. discloses the recited system for holding a smaller inner secondary conduit 6 within a larger diameter outer conduit 7, where a plurality of fasteners formed of arcuate shape to hold the inner conduit along the wall of the outer conduit are provided by hoops such as 70a which can be formed of plastic material and are held by adhesive to the wall of the outer pipe, and the inclusion of the extra portion sheath it is considered that the adhesive would also lie between the hoops.

Claims 1, 11 and 18 are amended to clarify that the second sewer pipe is in contact with the interior surface of the first sewer pipe and that the fastener means maintains that contact. That configuration is not shown in the '442 patent or Gauthier et al. Also, as explained below, Gauthier et al. does not disclose that the hoops 70A are held to the wall of the outer pipe by adhesive. Therefore, there is no double patenting and Applicant does not believe that a terminal disclaimer is required.

The Examiner rejected Claims 1 and 11 under 35 U.S.C. 102(b) as being anticipated by Fair (U.S. Patent No. 3,366,339). The Examiner stated that Fair discloses the recited combined sewer pipe for conveying storm water and other materials where the use for effluent is considered merely intended use, where the system of Fair is capable of carrying effluent comprising a large diameter first sewer pipe 30 having an interior surface, where such is used for sewage of which storm water is a known inherent material carried by sewers, a smaller diameter second sewer pipe 32 where use of such for effluent is merely intended use as set forth above, and a fastener 36 that attaches the second pipe to the inside of the first pipe.

000132692/0004/648025-1

Applicant amended Claims 1 and 11 to clarify that the second sewer pipe is in contact with the interior surface of the first sewer pipe and that the fastener means maintains that contact. In the Fair patent, the sanitary sewer pipe 32 is suspended in the main sewer pipe 30 by the hangers 36. Thus, the hangers 36 maintain the pipe 32 out of contact with the interior surface of the pipe 30 and Fair does not show or suggest the apparatus defined by amended Claims 1 and 11.

The Examiner rejected Claims 2, 10, and 12 under 35 U.S.C. 103(a) as being unpatentable over Fair in view of Finzel et al. (U.S. Patent No. 6,786,677). The Examiner stated that Fair discloses all of the recited structure with the exception of stating what material the second pipe is made of, and providing a liner inside the pipe trapping the second pipe between the liner and the outer pipe. According to the Examiner, Finzel discloses the recited sanitizing pipe system for waste water comprising an outer pipe AR, a second pipe LR, a system of supports AH that in combination with a liner IL1 trap and hold the second conduit inside of the outer pipe, where Finzel states the casings which inherently would include the extra second pipe above, are made of HDPE. The Examiner stated that it would have been obvious to one skilled in the art to modify the second pipe of Fair to be formed of any material where it is known in the art to form secondary pipes of HDPE, and to provide a liner as suggested by Finzel where such would provide a smoother bore for the inner pipe, and would still allow for the secondary pipe, which would increase flow and thereby make the pipe more efficient, and forming the second pipe of a plastic material would allow such to last longer thereby saving money where plastics are known to be less likely to degrade over time.

Finzel et al. shows a pipe system with an outer pipe AR having an inner wall IW covered by an outer casing AL1 concentric with the pipe AR. A smaller diameter inner casing IL1 is concentric with the outer casing AL1 to form a ring gap RS and is maintained in place by a plurality of distancing elements AH in the ring gap. This permits cables OC1, OC2 and an empty tube LR to be passed through the ring gap RS. As shown in Fig. 1, the tube LR is contacted by a knob-like distancing holder HA extending radially inwardly from the outer casing AL1 for positioning during filling of the ring gap RS with a special concrete FB.

As stated above, Applicant amended Claims 1 and 11 to clarify that the second sewer pipe is in contact with the interior surface of the first sewer pipe and that the fastener means

000132692/0004/648025-1

maintains that contact. In the Fair patent, the sanitary sewer pipe 32 is suspended in the main sewer pipe 30 by the hangers 36 out of contact with the interior surface of the pipe 30. In Finzel et al., the tube LR is maintained out of contact with the interior surface of the outer pipe AR by both the outer casing AL1 and the holder HA and the combination of Fair and Finzel et al. does not show or suggest the apparatus defined by Claims 2, 10 and 12.

The Examiner rejected Claims 3-9 and 13-19 under 35 U.S.C. 103(a) as being unpatentable over Fair in view of Gauthier et al. The Examiner stated that Fair discloses all of the recited structure with the exception of providing a plurality of fasteners attached by adhesive to the outer conduit filling gaps between the fasteners, forming the fasteners of plastic, and where the fasteners are arcuate to hold an inner conduit and contact the outer conduit. According to the Examiner, Gauthier et al. discloses the recited system for holding a smaller inner secondary conduit 6 within a larger diameter outer conduit 7, where a plurality of fasteners formed of arcuate shape to hold the inner conduit along the wall of the outer conduit are provided by hoops such as 70a which can be formed of plastic material and are held by adhesive to the wall of the outer pipe, and the inclusion of the extra portion sheath it is considered that the adhesive would also lie between the hoops. The Examiner stated that it would have been obvious to one skilled in the art to modify the generic fasteners mentioned in Fair by substituting therefore, a plurality of arcuate plastic fasteners which are held to the outer pipe wall by an adhesive as suggested by Gauthier et al. where such is an equivalent type of fastener used to suspend secondary conduits to the interior of larger pipes where such would insure the secondary pipe stay attached and would be attachable to various types of outer pipes thereby reducing costs in repair.

Gauthier et al. shows a corrugated steel tubular element 6 that is fixed to a plurality of hoops 2A interconnected by a membrane 3. The hoops 2A are made of spring steel to expand into a deployed position inside a duct 7 (fig. 2). As shown in Fig. 7, a hook 71 can be welded or adhesively bonded to a hoop 70A to retain the tube 6.

Contrary to the Examiner's statement, the Gauthier et al. hoops 70A are not held to the interior wall of the duct 7 by adhesive. The membrane 3 is positioned between the interior wall of the duct 7 and the hoops 70A and is held in place by the spring action of the hoops 70A. The only mention of adhesive is the option of adhesively bonding the hook 71 to the hoop 70A (Col. 5, Lines 41-46). Furthermore, the tube 6 does not contact the interior wall of the duct 7 as

000132692/0004/648025-1

defined by Applicant's claims. Therefore, the combination of Fair and Gauthier et al. does not show or suggest the apparatus defined by Claims 3-9 and 13-19.

The Examiner rejected Claim 20 under 35 U.S.C. 103(a) as being unpatentable over Fair in view of Gauthier et al. as applied above, and further in view of Finzel et al. The Examiner stated that Fair as modified discloses all of the recited structure with the exception of stating what material the second pipe is made of. According to the Examiner, Finzel et al. discloses the recited sanitizing pipe system for waste water comprising an outer pipe **AR**, a second pipe **LR**, a system of supports **AH** that in combination with a liner **IL** trap and hold the second conduit inside of the outer pipe, where Finzel et al. states the casings which inherently would include the extra second pipe above, are made of HDPE. The Examiner stated that it would have been obvious to one skilled in the art to modify the second pipe of Fair as modified to be formed of any material where it is known in the art to form secondary pipes of HDPE as suggested by Finzel et al. where such would allow the secondary pipe to last longer thereby saving money where plastics are known to be less likely to degrade over time.

Claim 20 depends indirectly from Claim 18 that has been amended to recite that the second sewer pipe is in contact with the interior surface of the first sewer pipe. As explained above, none of the cited references shows such a configuration. Also, Claim 18 defines the fasteners as be adhesively attached to the interior surface of the first sewer pipe. None of the cited references shows such a configuration.

The Examiner stated that the prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The Examiner cited: the U.S. Patent Publication No. 2002/0170612 of Penza; the U.S. Patent Publication No. 2003/0034080 of Second; the U.S. Patent No. 384,860 issued to Meehan; the U.S. Patent No. 3,863,679 issued to Young; the U.S. Patent No. 4,806,705 issued to Chen; the U.S. Patent No. 5,018,260 issued to Ziu; the U.S. Patent No. 6,311,730 issued to Penza; the U.S. Patent No. 6,463,960 issued to Madhani et al.; and the U.S. Patent No. 6,467,507 issued to Engle. Applicant reviewed these references and found them to be no more pertinent than the prior art relied upon by the Examiner in his rejections.

In view of the amendments to the claims and the above arguments, Applicant believes that the claims of record now define patentable subject matter over the art of record. Accordingly, an early Notice of Allowance is respectfully requested.

000132692/0004/648025-1